

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

VALVETECH, INC.,

Plaintiff,

v.

OHB SYSTEM AG,

Defendant.

Case No. 6:19-cv-06829-CJS-MJP

**NOTICE OF MOTION OF DEFENDANT OHB SYSTEM AG FOR SUMMARY
JUDGMENT OR, IN THE ALTERNATIVE,
DISMISSAL FOR FAILURE TO PROSECUTE**

PLEASE TAKE NOTICE that pursuant to the Scheduling Order (ECF No. 60), Defendant OHB System AG (“OHB”), by and through its attorneys, Alston & Bird LLP, moves this Court before the Honorable Charles J. Siragusa, United States District Court Judge at the U.S. District Court for the Western District of New York, 100 State Street, Rochester, New York, 14614, for an order pursuant to Federal Rule of Civil Procedure 56 granting this Motion for Summary Judgment dismissing the First (“Breaches of Contract”), Second (“Declaratory Judgment that Purchase Order Contract is Unenforceable”), and Third (“Replevin”) Causes of Action (all claims) in Plaintiff ValveTech, Inc.’s Amended Complaint (ECF No. 9), or, in the alternative, an Order dismissing Plaintiff ValveTech Inc.’s Amended Complaint for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b), along with such other and further relief as this Court deems just and proper.

In support of its motion, OHB concurrently submits Defendant’s Statement of Undisputed Material Facts pursuant to Local Rule 56(a)(1), and Defendant’s Appendix to Local Rule 56 Statement of Materials Fact pursuant to Local Rule 56(a)(3) and Attached Exhibits A-Z,

and the Declaration of Steven L. Penaro and the annexed Exhibit 1, together with OHB's Memorandum of Law in Support of its Motion for Summary Judgment Or, In The Alternative, Dismissal For Failure to Prosecute, and a Certificate of Service.

OHB hereby reserves the right to file Reply Papers pursuant to Local Rule 7(a)(1).

OHB is also filing a motion to seal Exhibits A, E, H, K, L, N, and Z that accompany its Appendix To Local Rule 56 Statement Of Material Facts.

WHEREFORE, Defendant OHB respectfully requests that this Court grant its Motion for Summary Judgment on all claims or, in the alternative, dismisses ValveTech's Amended Complaint.

Dated: New York, New York
February 24, 2022

/s/ Karl Geercken
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